

Gaikwad RD

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8820 OF 2023**

Dr Aruna Ramdas Bambere	...Petitioner
<i>Versus</i>	
The State of Maharashtra and Ors	...Respondents

Mr Prashant V Malik, *for the Petitioner.*
Mrs Pratibha Gavhane, AGP, *for Respondent No.1-State.*
Mr Ganesh K Gole, *for Respondent No.2-NBE.*
Mrs Smita Koregaonkar, Chief Administrative Officer, *for*
Respondent No.3, Director of Health Sciences, Thane, Mumbai is
present in person.
Mr Shailesh Patankar, Chief Administrative Officer, *for*
Respondent No.4, Deputy Director of Health Science is present in
person.
Mr Sunil Warate, Section Officer, *for Respondent No.5, District*
Health Officer, Zilla Parishad, Raigad is present in person.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**
DATED: 3rd August 2023

PC:-

1. Heard. We take the liberty of disposing of the Petition immediately because of the urgency. The final reliefs sought in the Petition are as follows:

- “(a) The writ petition may kindly be allowed.
- (b) To direct the respondent no.4 to grant ex post facto

permission by issuing NOC Certificate to the Petitioner to appear for NEET PG 2023 examination forthwith, by issuing a writ of mandamus or any other appropriate writ, order or direction as the case may be;

(c) To direct the Respondent No.2 and 3 to consider the claim of the Petitioner for admission to NEET PG 2023 from in-service candidate quota in the order of merit on the basis of said ex post facto permission granted to the Petitioner, by issuing a writ of mandamus or any other appropriate writ, order or direction as the case may be;

(d) To direct the Respondent No. 5 to issue a Probation Completion Certificate after considering the Probation Completion documents of the Petitioner.

2. The case of the Petitioner is that having completed her MBBS degree on 27th August 2012 from the Rajarshee Chhatrapati Shahu Maharaj Medical College, Kolhapur, and having registered as a medical practitioner at Mumbai, on 16th September 2015, the Petitioner got a job as a medical officer in the Primary Health Center, Kadav, Taluka Karjat, District Raigad. On 18th November 2015, the Petitioner received a service allocation. In 2023, the Petitioner sought a no objection certificate to apply for the NEET Post Graduate. It seems that the 5th Respondent, the District Health Officer, submitted this proposal to the Deputy Director, Health Services for the no objection certificate. There has been no response since.

3. The Petitioner says, amongst other things, that she has been working as a medical officer in what is undoubtedly a remote area

from November 2015. All that she requires now is a NOC. The failure to furnish this NOC causes the Petitioner significant prejudice.

4. On the limited instructions that she has obtained, Mrs Gavhane points out that there is under a government resolution dated 19th March 2019, a requirement that a medical officer must remain present at the designated post, even if it is in a remote area. Absenteeism has serious public health concerns and considerations.

5. When asked why we were being shown this portion, we are told that there is cause for complaint against the Petitioner. The next question was obvious, i.e., what action had actually been instituted or commenced against the Petitioner, whether in the form of an inquiry, show cause notice or otherwise. We were then candidly informed that for the last five years, nothing whatever has been done against the Petitioner, even in the case of this alleged absenteeism.

6. We do not see how it is possible to refuse the Petitioner the limited relief that is sought, i.e., for a no objection certificate by the 4th Respondent, so that the Petitioner may pursue a post graduate degree.

7. Accordingly, Rule is made absolute in terms of prayer clause (b).

8. The no objection certificate is to be issued within ten days from today. It goes without saying that it will have to be issued in the required format.

9. We are not inclined to grant relief in terms of prayer clause (c) as it is currently worded. The Petitioner's admission to post graduate courses will be on merits. No part of this order is to be construed as having assessed the Petitioner's merits for a post graduate course. If a probation completion certificate is required, then that decision is to be taken urgently and, in any event, within two weeks of an application to that effect being made in writing by the Petitioner.

10. The Petition is disposed of. No orders as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)

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